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| 10/658,654      | 09/09/2003  | Michael D. Hamerski  | 56127US008          | 1976             |

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| EXAMINER |
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MORRISON, NASCHICA SANDERS

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| ART UNIT | PAPER NUMBER |
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3632

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |  |   |  |
|------------------------------|--|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/658,654   | <b>Applicant(s)</b><br>HAMERSKI, MICHAEL D. <span style="float: right;">ST</span> |  |
|                              | <b>Examiner</b><br>Naschica S Morrison | <b>Art Unit</b><br>3632   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the second Office Action for serial number 10/658,654, Hanger, filed on September 10, 2003. Claims 1-20 are pending.

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4, 6, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent 10-85495 to Sekikawa. Regarding claims 1, 2, 4, 6, and 9, Sekikawa discloses a hanger (Fig. 1) comprising: a base (3,4) having a supported surface (at 7 and at 8) and an opposite outer surface (at 3 and at 4), an elongate peg (1) having a longitudinal axis and first (at 6) and second (at 2) longitudinally spaced ends, a portion of the peg adjacent the first end mounted on the base in a use position with the axis of the peg being generally at a right angle with respect to the supported surface (7), and a major portion (at 1 generally) of the peg adjacent the second end (at 2) projecting from the outer surface, having a generally uniform cross-sectional area along its length, and having an axially extending threaded (i.e. axially spaced transverse ridges with sharp edges) surface portion (5) for solely restricting free movement of an object (10) around the peg axially of the peg. Sekikawa does not expressly disclose the major portion of the peg having a diameter being less than about 0.17 inch. With regards to claims 9 and 10, Sekikawa does not expressly disclose the peg having a diameter of about 0.11 inch and the major portion of the peg

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projecting from the outer surface by a distance in a range of 0.15-0.30 inches.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the peg of Sekikawa with the dimensions as specified above since it has been held that the optimization of proportions in a prior art device is a design consideration within the skill of the art. In re Reese, 290 F.2d 839, 129 USPQ 402 (CCPA 1961).

Claims 1-4, 6, and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swiss Patent 247,664 to Schlaeppi in view of U.S Patent 5,129,297 to Bussi. Regarding claims 1-4, 6 and 8, Schlaeppi discloses a hanger (Fig. 1) comprising: a base (at 1 in Fig. 3) having a supported surface (at 2) and an opposite outer surface, an elongate peg (1 in Fig. 1) having a longitudinal axis and a first end (adjacent 5) longitudinally spaced from a second, pointed end (at the tip of 1), a portion of the peg adjacent the first end (adjacent 5) mounted on the base in a use position with the axis of peg being generally at a right angle with respect to the supported surface, and a major portion (1 generally) of the peg adjacent the second end projecting from the outer surface the peg and having an axially extending threaded (i.e. axially spaced transverse ridges with sharp edges defined by screw threads) surface portion for solely restricting free movement of an object around the peg axially of the peg. Schlaeppi does not expressly disclose the major portion of the peg having a generally uniform cross-sectional area along its length. Bussi discloses a member (Fig. 3) comprising a fastener (3) including a machine screw threaded portion (at 3) having a uniform cross-sectional area along its length. It would have been obvious to one of ordinary skill at the

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time the invention was made to have modified the hanger of Schlaeppi by substituting the fastener/peg (3) of Bussi for the peg (1) of Schlaeppi because one would have been motivated to provide a means for self-tapping into objects formed of metal as taught by Bussi (col. 4, lines 50-55). Schlaeppi in view of Bussi does not expressly disclose the major portion of the peg having a diameter being less than 0.17 inch. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the diameter of the major portion of the peg with the dimension specified above since it has been held that that discovering an optimum value of a result effective variable involves only routine skill in the art. With regards to claims 9 and 10, Schlaeppi in view of Bussi discloses the hanger as applied above but does not expressly disclose the peg having a diameter of about 0.11 inch and the major portion of the peg projecting from the outer surface by a distance in a range of 0.15-0.30 inches. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the peg with the dimensions as specified above since it has been held that the optimization of proportions in a prior art device is a design consideration within the skill of the art. In re Reese, 290 F.2d 839, 129 USPQ 402 (CCPA 1961).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sekikawa in view of U.S. Patent 2,866,583 to Batts and further in view of U.S. Patent 5,690,561 to Rowland et al. (Rowland). With regards to claims 5, Sekikawa discloses the hanger as applied to claims 13, 15 and 17-20 above, but does not disclose the peg including a coating of adhesive or a coating of abrasive granules. Batts discloses a hanger comprising a hanging surface (14) including an adhesive coating of abrasive granules

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(22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hanger of Sekikawa by substituting an adhesive coating of abrasive granules for the threads because one would have been motivated to provide a means for holding suspending objects that prevents vibration-induced slippage of the hung objects on the peg as taught by Batts (col. 1, lines 48-56). Sekikawa in view of Batts discloses the hanger as applied above, but does not expressly disclose the abrasive granules defining the sharp edges. Rowland discloses a device for frictionally engaging another object comprising an adhesive coating (Fig. 17) having a serrated surface (112) forming peaks (104) with sharp edges (110) and an alternative frictional means (Fig. 2) comprising a coating of abrasive granules (14) with sharp edges. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the adhesive coating of Batts by providing granules with sharp edges because one would have been motivated to provide an alternative means for frictionally engaging an object mounted on the peg as inherently taught by Rowland.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sekikawa in view of Batts. With regards to claim 7, Sekikawa discloses the hanger as applied to claims 13, 15 and 17-20 above, but does not disclose the peg including a coating of adhesive. Batts discloses a hanger comprising a hanging surface (14) including an adhesive coating of abrasive granules (22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hanger of Sekikawa by substituting an adhesive coating of abrasive granules for the threads

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because one would have been motivated to provide an alternative means for preventing vibration-induced slippage of objects hung on the peg as taught by Batts (col. 1, lines 48-56).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sekikawa in view of U.S. Patent 6,106,937 to Hamerski. With regards to claim 11, Sekikawa discloses the hanger as applied to claims 13, 15 and 17-20 above, but does not disclose stretch release adhesive on the supported surface of the base. Hamerski discloses a mounted device (Fig. 14) including a base (406) having a supported surface (410) with a length of stretch release adhesive (408) adhered thereto. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the base by including a length of stretch release adhesive attached thereto because one would have been motivated to provide a means for removably bonding an article to a support surface as taught by Hamerski (col. 1, lines 5-8).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schlaeppi in view of Bussi and further in view of Hamerski. With regards to claim 11, Schlaeppi in view of Bussi discloses the hanger as applied to claims 1-4, 6, and 8-10 above, but does not disclose stretch release adhesive on the supported surface of the base. Hamerski discloses a mounted device (Fig. 14) including a base (406) having a supported surface (410) with a length of stretch release adhesive (408) adhered thereto. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the base of Schlaeppi by substituting a length of stretch release adhesive for the nail (4) because one would have been motivated to provide a

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means for removably bonding an article to a support surface as taught by Hamerski (col. 1, lines 5-8).

Claims 1-4, 6, 8-10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,040,149 to Einhorn in view of Bussi. With regards to claims 1-4, 6, 8-10, and 12, Einhorn discloses a hanger (Fig. 34) comprising: a base (140) having a supported surface and an opposite outer surface (141), a protrusion/hook (143) having a longitudinal axis and first (at 144) and second (at 143) longitudinally spaced ends, a portion of the hook adjacent the first end mounted on the base for movement between a use position with the axis of hook being generally at a right angle with respect to the supported surface and a storage position with the hook capable of extending along the outer surface of the base. Einhorn does not disclose the hanger including a peg. However, Einhorn teaches an alternative hanger (Fig. 17) having a peg (67) extending from a base (69), wherein the peg has a longitudinal axis and first and second longitudinally spaced ends, and wherein the peg includes a major portion (at 67) adjacent the second end and extending from the outer surface of the base. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the embodiment of Fig. 34 of Einhorn by substituting the peg (67) for the hook (143) as an equivalent alternative means for supporting an object on the hanger as taught by Einhorn. Additionally Einhorn fails to disclose the major portion of the peg having a diameter of less than about 0.17 inches and having a generally uniform cross-sectional area along its length, and the peg (67) further including an axially extending surface portion defining transverse ridges axially



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spaced along the peg and defining sharp edges adapted to restrict free movement of an object around the peg axially of the peg. Bussi discloses a member (Fig. 3) comprising a fastener (3) including a machine screw threaded portion (at 3) having a uniform cross-sectional area along its length. It would have been obvious to one of ordinary skill at the time the invention was made to have modified the hanger of Einhorn by substituting the fastener/peg (3) of Bussi for the peg (67) because one would have been motivated to provide a means for self-tapping into objects formed of metal as taught by Bussi (col. 4, lines 50-55). Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the diameter of the major portion of the peg with the dimension specified above since it has been held that that discovering an optimum value of a result effective variable involves only routine skill in the art. With regards to claims 9 and 10, Einhorn does not expressly disclose the peg having a diameter of about 0.11 inch and the major portion of the peg projecting from the outer surface by a distance in a range of 0.15-0.30 inches. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the peg with the dimensions as specified above since it has been held that the optimization of proportions in a prior art device is a design consideration within the skill of the art. In re Reese, 290 F.2d 839, 129 USPQ 402 (CCPA 1961).

Claims 13, 15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,430,301 to Venus in view of Sekikawa. Regarding claims 13, 15, 17 and 18, Venus discloses a combination comprising: a base (130) having a supported surface (at 100 in Fig. 2) and an opposite outer surface, an elongate

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peg (72) having a longitudinal axis and a first end (at 70 generally) longitudinally spaced from a second, pointed end (adjacent 72), a portion of the peg adjacent the first end mounted on the base with the axis of peg being angled with respect to the supported surface, a major portion of the peg adjacent the second end projecting from the outer surface, having a generally uniform cross section along its length, and further having an axially extending surface portion (along 72) extending through openings in sheets of paper (col. 1, lines 22-24). Venus does not expressly teach the major portion of the peg having a diameter of less than about 0.17 inches. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the major diameter of the peg with the dimension specified above since it has been held that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Venus does not teach the peg being mounted at a right angle with respect to the supported surface or the surface portion defining closely spaced sharp edges. Sekikawa discloses the hanger as applied to claims 1, 2, 4, 6, 9, and 10 above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the peg of Venus by extending the peg from the supported surface at a right angle and providing sharp edges along the surface portion as taught by Sekikawa because one would have been motivated to provide a means for *securely* suspending an object from the surface of the peg as taught by Sekikawa. With regards to claims 19 and 20, Venus in view of Sekikawa does not expressly disclose the peg having a diameter of about 0.11 inch and the major portion of the peg projecting from the outer surface by a distance in a range of

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0.15-0.30 inches. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the peg of Venus with the dimensions as specified above since it has been held that the optimization of proportions in a prior art device is a design consideration within the skill of the art. In re Reese, 290 F.2d 839, 129 USPQ 402 (CCPA 1961).

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Venus in view of Sekikawa in view of Schlaeppli and further in view of Bussi. With regards to claim 14, Venus in view of Sekikawa discloses the combination as applied to claims 13, 15 and 17-20 above, but does not disclose the sharp edges defined by screw threads. Schlaeppli discloses the hanger as applied to claims 1-4, 6, and 8-10 above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the sharp edges of Sekikawa to be defined by screw threads because one would have been motivated to provide an equivalent, alternative means for frictionally engaging an object mounted on the peg as inherently taught by Schlaeppli. Venus in view of Sekikawa in view of Schlaeppli does not teach the screw threads being machine screw threads. Bussi discloses the fastener as applied to claims 1-4, 6 and 8-10 above. It would have been obvious to one of ordinary skill at the time the invention was made to have modified the threads of Schlaeppli to be machine screw threads because one would have been motivated to provide a means for self-tapping into objects formed of metal as taught by Bussi (col. 4, lines 50-55).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Venus in view of Sekikawa and further in view of U.S. Patent 5,690,561 to Rowland et al.

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(Rowland). With regards to claim 16, Venus in view of Sekikawa discloses the hanger as applied to claims 13, 15 and 17-20 above, but does not disclose the peg including a coating of abrasive granules. Rowland discloses a device for frictionally engaging another object comprising an adhesive coating (Fig. 17) having a serrated surface (112) forming peaks (104) with sharp edges (110) and an alternative frictional means (Fig. 2) comprising a coating of abrasive granules (14) with sharp edges. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the peg of Venus in view of Sekikawa by substituting an adhesive coating of abrasive granules for the threads because one would have been motivated to provide an alternative means for holding suspending objects that prevents vibration-induced slippage of the hung objects on the peg as taught by Batts (col. 1, lines 48-56).

### ***Response to Arguments***

Applicant's arguments filed 9/29/04 have been fully considered but they are not persuasive.

Regarding applicant's argument that the hanger of Sekikawa would significantly destroy normal sized sheets of paper pressed thereover, examiner respectfully disagrees since sheets of paper are produced in various sizes such as notebook paper and paper used on large easels (such as easels commonly used in a presentation). Additionally, examiner respectfully disagrees with applicant's argument that it would not be obvious to one of ordinary skill in the art to change the size/dimensions of the hanger

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of Sekikawa in order to suit its intended use (i.e. to hang smaller or lighter weight objects).

Regarding applicant's argument that the hanger of Schlaeppi is not suitable for supporting flexible objects which can not maintain the barb (4) in engagement with the wall, examiner respectfully disagrees as Schlaeppi does not specifically teach that the barb (4) needs help from the suspended object in order to maintain engagement within a wall and applicant has not recited any specific text within the disclosure of Schlaeppi in support thereof.

In response to applicant's argument that there is no suggestion in Sekikawa, Schlaeppi or Einhorn to provide a peg having a major portion with a diameter less than 0.17 inches and that there is no basis for the conclusion that it would have been obvious to modify the peg based on optimization of proportions of a prior art device, examiner respectfully disagrees. It would have been obvious to one of ordinary skill in the art to optimize the size and diameter of the peg relative to the base in order to provide adequate support for the object that is to be suspended/hung from the peg.

In response to applicant's arguments against Einhorn and Bussi and the uncertainty of how self-tapping into metal objects relates to forming paper hangers and also applicant's argument that Sekikawa, Batts and Rowland have nothing to do with hangers for sheets of paper, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In

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response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that Batts does not teach or suggest a coating of adhesive, examiner respectfully disagrees. Batts teaches an "adhesive coating" of abrasive granules which has been interpreted to mean a coating of adhesive that includes abrasive granules, thus Batts teaches a coating of adhesive.

In response to applicant's argument that there is no suggestion in Bussi that a peg of the type claimed in claim 12 should be substituted for the hook (143), examiner respectfully points out that the rejection relies upon the teachings of Einhorn to provide the suggestion for substituting a peg (67) for the hook (143) and Bussi is relied upon to teach substitution of a peg having machine screw threads for the peg (67).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

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*Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation and suggestion to combine the references is found in the references themselves and in the knowledge generally available to one of ordinary skill in the art as set forth in the rejections above.

In response to applicant's argument that Schlaeppi does not teach the machine screw threads as recited in claim 14, the rejection of claim 14 relies upon Bussi to teach machine screw threads.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 306-1113.

  
Naschica S. Morrison  
Patent Examiner  
Art Unit 3632  
11/29/04

  
ANITA KING  
PRIMARY EXAMINER